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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,283

10/16/2003

Stephen Loomis

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EXAMINER

KEEFER, MICHAEL E

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/688,283	Applicant(s) LOOMIS ET AL.	
	Examiner MICHAEL E. KEEFER	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the RCE and Amendment filed 10/8/2008.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-5, 9-11, 14-15, 19-21, 24-25, and 29-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman (US 6067562), in view of Day et al. (US 5996015), hereafter Day, in further view of Murase et al. (US 2002/0158895), and in further view of DiFranza et al. (US 2004/0222047).

Regarding **claims 1, 11 and 21**, Goldman discloses:

analyzing each of the received playlists to determine content that is already locally cached, and content that needs to be retrieved; fetching content that needs to be retrieved for each of the received playlists; locally caching the fetched content; (Col. 2, lines 15-25 "The system then validates the selections and requests the loading of any material not present" Col. 1 lines 57-61 If a song is not available locally it can be downloaded from another server)

Goldman discloses all the limitations of claims 1, 11, and 21 except for:

concatenating the cached content into a stream for each of the stations, based on the received playlist for each of the stations;

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Day teaches the general concept of concatenating the cached content into a stream for each of the stations, based on the received playlist for each of the stations.

(Abstract "multimedia files are seamlessly concatenated on the fly")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldman with Day in order to a broadcast station to use differing types of media more easily and also to allow a broadcast station to stream information over the Internet or other networks.

Goldman and Day teach all the limitations of claims 1, 11, and 21 except for:

for each of the stations, feeding a buffer of a plurality of buffers with the stream corresponding to the station; and upon receiving a request for one or more of the streams, transmitting the streams of the content from the buffers to at least one distribution point for relaying to at least one client terminal.

The general concept of using a feeding a stream into a buffer in order to transmit it over a network is well known in the art as taught by Murase (see [0112]-[0113]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goldman and Day with the general concept of using a feeding a stream into a buffer in order to transmit it over a network as taught by Murase in order to allow a smoother streaming experience.

Goldman, Day, and Murase disclose all the limitations of claims 1, 11, and 21 except for:

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periodically querying a database for a playlist for each of a plurality of stations;
receiving the playlists from the database based upon the periodic query

The general concept of retrieving playlists from a database and receiving these playlists is well known in the art as taught by DiFranza. (see at least [0045] which discloses downloading a playlist from a server)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goldman, Day, and Murase with the general concept of retrieving playlists from a database and receiving these playlists as taught by DiFranza in order to allow parent companies to push playlists to the radio stations they own.

Regarding **claims 4, 14, and 24**, Goldman discloses:

Content is audio content. (Goldman discloses audio stations) (Col. 1 lines 12-13 “a digital audio system”)

Regarding **claims 5, 15, and 25**, Day teaches:

Content is video content. (Col. 2 line 31 teaches video files).

Regarding **claims 9, 19, and 29**, Day teaches:

The client is a computer (Fig. 2, item 203)

Regarding **claims 10, 20 and 30**, Day teaches:

Matching the rate of play of the stream to the rate of play of the client. (Col. 5 lines 67 - Col. 6 line 2, the encoding rate of the file must be accommodated with the bitrate or transfer rate of the device)

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3. Claims 2, 12, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, Day, Murase, and DiFranza as applied to claims 1, 11, and 21 above, and further in view of Funashashi et al. (US 5774672).

Goldman, Day, Murase, and DiFranza teach all the limitations of claims 2-3, 12-13, and 22-23 except for continuing to advance through the playlist for at least one of the stations if delivery of new content or schedule is disrupted; caching the first track of the playlist into memory if a second to last content element is reached, to producing a loop of the stream of content, such that the last content element is linked to the first content element; and playing the loop of content

The general concept of repeating a playlist when new content is not available is well known in the art as taught by Funahashi (see Col. 7 lines 35-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goldman, Day, Murase, and DiFranza with the general concept of repeating a playlist when new content is not available as taught by Funahashi in order to make sure there is no dead air time.

4. Claims 3, 13, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, Day, Murase, DiFranza, and Funahashi as applied to claims 1-2, 11-12, and 21-22 above, and further in view of Amo et al. (US 2005/0056494).

Goldman, Day, Murase, DiFranza, and Funahashi teach all the limitations of claims 3, 13, and 23 except for: checking for new items in the playlist as each of

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the tracks finishes streaming; and stopping the looping if there are new items in the playlist, to resume normal streaming of the content.

The general concept of checking for updates for a playlist and altering the playlist when there are updates is well known in the art as taught by Amo. (See at least paragraph 37)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goldman, Day, Murase, DiFranza, and Funahashi with the general concept of checking for updates for a playlist and altering the playlist when there are updates as taught by Amo in order to make sure that the most current advertisements are being played on the station.

5. Claims 6-7, 16-17, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, Day, Murase, and DiFranza as applied to claims 1, 11, and 21 above, and further in view of Addington (US 2003/0028893).

Goldman, Day, Murase, and DiFranza teach all the limitations of claims 6-7, 16-17, and 26-27 except for incorporating metadata indicating content duration into the stream.

The general concept of incorporating metadata indicating content duration into a stream is well known in the art as taught by Addington. ([0030] discloses including metadata indicating a duration of the stream into the stream.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldman, Day, Murase, and DiFranza with the general concept of

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incorporating metadata indicating content duration into a stream as taught by Addington in order to allow the user to see the length of time a stream will take to play.

6. Claims 6, 8, 16, 18, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, Day, Murase, and DiFranza as applied to claims 1, 11, and 21 above, and further in view of Costello et al. (US 6609097), hereafter Costello.

Goldman, Day, Murase, and DiFranza teach all the limitations of claims 6, 8, 16, 18, 26, and 28 except for incorporating metadata indicating time remaining into the stream.

The general concept of incorporating metadata indicating time remaining into a stream is well known in the art as taught by Costello. (Col. 9 lines 9-11 teach including remaining play time as metadata with a stream.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Goldman, Day, Murase, and DiFranza with the general concept of incorporating metadata indicating time remaining into a stream as taught by Costello in order to allow the user to see a remaining play time for a stream.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL E. KEEFER whose telephone number is (571)270-1591. The examiner can normally be reached on Monday through Friday 9am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MEK 12/17/2008

/Dustin Nguyen/
Primary Examiner, Art Unit 2454